

REMARKS/ARGUMENTS

In the present Office action, claims 39-61 and 63-65 were examined. Claims 40-46, 48-51, 57-60, 61, and 65 were withdrawn from consideration. Claims 39, 47, 52-56, 61, and 63 were rejected. Claim 61 has been amended. Claims 39, 47, 52-56, 61 and 63 are believed to be in condition for allowance. Applicant makes note that claim 66, dependent upon claim 39, while not referred to by the examiner, is likewise believed to be in condition for allowance.

Claim Rejections under 35 U.S.C. 112

The examiner rejected claim 61 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. Specifically, the examiner noted that the claim lacks positive antecedent basis for the term "the rough surface". Claim 61 is amended herein to read "a rough surface". As a result of this amendment, claim 61 is believed to be in condition for allowance.

Claim Rejections under 35 U.S.C. 103

The examiner rejects claims 39, 52-53, 55-56, 61, and 63 (and claim 66, see above) as being unpatentable over Raveleau (6,102,268) in view of Vossen et al. (5,181,640). The examiner notes that Raveleau discloses the invention substantially as claimed except for a dovetail shaped configuration and a breaking-out tool and support means being arranged such that a broken-out piece is inclined relative to sheet material. The examiner later notes that Vossen et al. teach a waste portion being transferred by a breaking-out member into an angle of

inclination with respect to the sheet material. The examiner further concludes that it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Raveleau to arrange the breaking-out tool and support means in such a way that the broken-out piece is transferred into an inclined position as taught by Vossen et al.

The applicant respectfully disagrees with the examiner's interpretation of the teachings of Vossen et al. In particular, Vossen et al. does not teach a waste portion being transferred by a breaking-out tool into an angle of inclination with respect to the sheet of metal as claimed in the present invention. Specifically, claim 39 of the present application recites "... and wherein the breaking-out tool and the support means are arranged such that the broken-out piece is inclined relative to the sheet of material in the downward movement of the breaking-out tool."

Specifically, Vossen et al., in the manner nearly identical to that taught by Raveleau, teaches breaking out a waste piece by pushing the waste piece linearly, in a downward detaching motion, and only later, after removing the waste piece in this manner, inclining the waste piece at an angle relative to the sheet of material from which the waste piece is broken out. As the abstract of Vossen et al. makes clear "The support is a surface which is springy and/or movable within the aperture at least partially into a position at a spacing relative to the break-out surface and which in its rest position engages beneath the waste piece in the sheet of material and which is adapted to be transferred into an inclined position relative to the sheet of material upon movement of the waste piece by the break-out member, in particular upon downward movement of the waste piece." As is clearly stated in the abstract, the broken-out

piece is moved, and hence detached, in a strictly "downward movement" of the waste piece. After breaking out, the waste piece comes in contact with the support surface which is adapted "to be transferred into an inclined position". This is clearly illustrated with reference to FIGS. 6-8. As can clearly be seen, waste piece 12 must travel a short distance before coming into contact with spring tongue 30, the bending and inclination of which causes waste piece 12 to be deflected at an angle relative to the cardboard sheet 10 before moving in the Z direction away from the apparatus. It is therefore clearly evident that Vossen et al., like Raveleau, fails to teach or suggest a central element of the present invention, specifically the inclination of the broken-out piece relative to the sheet material.

As noted in our prior amendment, a difference in the apparatus claimed in the present invention with respect to Raveleau and Vossen et al., is substantial. Specifically, the apparatus of the present invention, by forcing the tilting movement of the broken-out piece, improves the quality of the cut-out edges of the finally obtained sheet of material, while simultaneously decreasing the forces which are necessary for the breaking out process. As neither Raveleau nor Vossen et al. singularly teach or suggest this limitation, neither do they taken into combination teach or suggest this important feature of the present invention.

As a result, applicant respectfully traverses the examiner's grounds for rejection with respect to claim 39. Claim 39 is therefore believed to be in condition for allowance. As all of the remaining claims are dependent upon claim 39, claim 39 now believed to be in condition for allowance, all remaining claims are likewise believed to be in condition for allowance.

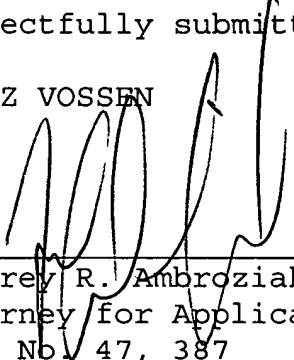
An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

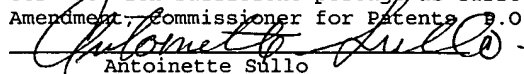
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on August 24, 2004


Antoinette Sullo